

**CERTIFICATE OF MAILING BY "EXPRESS MAIL" (37 CFR 1.10)**

Applicant(s): Jean-Marc Francois

Docket No.

2002B098/2

Application No.

Filing Date

April 6, 2004

Examiner

Not Yet Assigned

Customer No.

Group Art Unit

Not Yet Assigned

Invention: Improved Metallized Films

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**OFFICE OF PETITIONS**

I hereby certify that the following correspondence:

Transmittal, Request For Reconsideration of Petition Under 37 CFR 1.47(b), Exhibits A-G and post card

*(Identify type of correspondence)*


is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

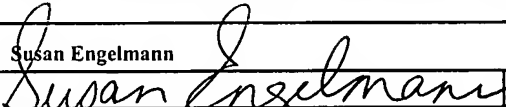
January 4, 2005*(Date)*Susan Engelmann*(Typed or Printed Name of Person Mailing Correspondence)**(Signature of Person Mailing Correspondence)*EV366444263US*("Express Mail" Mailing Label Number)***Note: Each paper must have its own certificate of mailing.**

<h1 style="text-align: center;">TRANSMITTAL FORM</h1> <p style="text-align: center;">(to be used for all correspondence after initial filing)</p>	Application Number	10/822,188	
	Filing Date	April 6, 2004	
	First Named Inventor	Jean-Marc Francois	
	Art Unit	Not Yet Assigned	
	Examiner Name	Not Yet Assigned	
Total Number of Pages in This Submission		Attorney Docket Number	2002B098/2

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ENCLOSURES (check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment / Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/ Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): <div style="border: 1px solid black; padding: 5px; margin-top: 5px;">         Request For Reconsideration of Petition Under 37 CFR 1.47(b), Exhibits A-G and Certificate of Mailing by Express Mail       </div>
<div style="border: 1px solid black; padding: 5px;">         Remarks       </div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual name	Rick F. James Reg. No. 48,772 Customer No. 23455
Signature	
Date	January 4, 2005

CERTIFICATE OF TRANSMISSION/MAILING		
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on		
Typed or printed name	Susan Engelmann	
Signature		Date
		January 4, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

**"PATENT"**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Appl. No. : 10/822,188 Confirmation No.: 2316  
Applicant : Jean-Marc FRANCOIS  
Filed : April 6, 2004  
TC/A.U. : Not Yet Assigned  
Title: : "IMPROVED METALLIZED FILMS"  
Examiner : Not Yet Assigned  
Docket No. : 2002B098/2  
Customer No. : 23455

Date: January 4, 2005

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Attn: Derek L. Woods  
Commissioner for Patents  
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Alexandria, VA 22313-1450

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**REQUEST FOR RECONSIDERATION OF  
PETITION UNDER 37 CFR 1.47(b)**

Dear Sir:

This Request is in response to the dismissal of Applicant's (ExxonMobil Chemical Patents, Inc.) declaration and petition filed September 23, 2004. The petition was dismissed on November 4, 2004, providing two months for reply and correction. The dismissal was based upon deficiencies with respect to certain requirements under 37 CFR 1.47(b), including particularly, items (1) proof that the non-signing inventor refuses to sign; (2) an acceptable oath or declaration; and (5) proof of proprietary interest. It was requested that this reply to the dismissal only address the noted deficiencies. As such, Applicant respectfully addresses each item separately as follows.

**Item (1) - proof that the inventor refuses to sign**

Applicant has made at least three attempts to have the inventor Mr. Jean-Marc Francois execute a declaration for the filing of the subject application for patent and assignment of the subject invention to ExxonMobil Chemical Patents, Inc. The first was during the course of several days preceding the priority filing date of April 10, 2003, when the documents were presented to Mr. Francois during the term of his employment by ExxonMobil. The documents were presented to Mr. Francois personally by his supervisor, Mr. Jean-Pierre Frognet, whereupon Mr. Francois declined to execute the documents. Mr. Francois voluntarily terminated his employment with ExxonMobil on April 11, 2003.

A subsequent attempt was made by ExxonMobil to secure Mr. Francois' execution of the declaration and assignment. A declaration (newly drafted with the then last known address for Mr. Jean-Marc Francois), assignment, application, and a pre-addressed, postage pre-paid return DHL envelope was sent to Jean-Marc Francois' then last known address listed in our Law Department database at 12 Rue de Deauville, 54260 Longuyon, France, on July 29, 2004, via DHL courier (Exhibit A). Applicant has not received any reply from Mr. Francois or other indication that delivery was then to an incorrect address.

Since sending the declaration and petition filed by Applicant on September 23, 2004, Applicant has located a new address for Mr. Francois. This new address is "Avenue de Peville 46 - B4030 LIEGE (Belgium)."

On December 2, 2004 (Exhibit B), Applicant sent via DHL courier to Mr. Francois, another copy of the application as filed (including the claims, specification, and drawings), a 37 CFR §1.63 declaration, an assignment document, a pre-addressed DHL return envelope, and a cover letter instructing Mr. Francois on how to execute and return the documents. Attached hereto is a copy of a DHL detail tracking report (Exhibit C) reflecting the shipment history of the package to Mr. Francois. Particularly, the report demonstrates that the package was shipped to Mr. Francois on December 2, 2004 and was successfully delivered to Mr. Francois in Liege, a city near Brussels, Belgium, on December 6, 2004.

The attached tracking report reflects that the package was delivered to "Jean-Marie Francois." Applicant believes this is merely a typographical error or misread of the recipient name by the DHL representative entering data into the tracking system. The name should have been typed in as "Jean-Marc" instead of "Jean-Marie." Also attached hereto is a "Shipment Detail" (Exhibit C) printout provided by DHL reflecting Delivery to "Jean Marc Francois" in an upper portion of the document, while the Consignee name near the lower portion of the page reflects "Jean-Marie Francois." Applicant also attaches hereto a copy of the actual delivery confirmation page (Exhibit C) that Mr. Francois signed when he received the package. Line item 17 on that page erroneously reflects the "Jean-Marie Francois" name, while the printed name cell merely reflects "Francois." The signature cell is illegible. Applicant respectfully submits that these facts support a conclusion that DHL mistyped the name, as there is no basis for a conclusion that the package was actually received by a "Jean-Marie Francois" as opposed to the inventor, Mr. "Jean-Marc Francois." Applicant believes that the inventor, Mr. Francois, properly received the package.

As of the present date of January 4, 2005, Applicant has not received from Mr. Francois the requested executed declaration and assignment documents.

In addition to the above-referenced package, Applicant has also sent two e-mails to Mr. Francois related to the subject declaration and assignment. Applicant obtained what it believes to be a valid e-mail address from one of Mr. Francois's former colleagues. After sending each e-mail, applicant has not received any indication that the e-mail address was invalid or incorrect. As of the present date, Applicant has not received from Mr. Francois any reply to the e-mails or any other indication that Mr. Francois intends to execute or return the requested declaration and assignment to Applicant.

Item (2) - acceptable oath or declaration

ExxonMobil Chemical Patents, Inc. is the 37 CFR 1.47(b) Applicant. To establish ownership under 37 CFR 3.73(b), Applicant submits the following documents and declaration:

My full name is Ricky Fane James and I have a business address at P.O. Box 2149, Baytown, Texas 77522-2149. I hereby declare that I am an Attorney admitted to practice law in the state of Texas, that I am registered to practice before the U.S. Patent and Trademark Office, Registration No. 48,772, that I am employed by ExxonMobil Corporation and that I am authorized to sign on behalf of Applicant, ExxonMobil Chemical Company.

To evidence my authority to sign and act on behalf of Applicant, attached hereto are (1) a Certification that I am an Officer of ExxonMobil Chemical Patents Inc. (Exhibit D), and (2) a letter from Richard Phillips, a corporation Vice President, to the Commissioner, delegating authority to me to act in certain capacities on behalf of ExxonMobil Chemical Patents, Inc. (Exhibit E). ExxonMobil Chemical Patents, Inc. may, at its sole discretion, further assign certain patents to be held by another internal patent holding subsidiary, namely ExxonMobil Oil Corporation. This permits segregation of certain technology fields within the company. The subject patent application will be designated by ExxonMobil Chemical Patents, Inc. to be held by ExxonMobil Oil Corporation. However, ExxonMobil Chemical Patents, Inc. remains the rightful owner of patents assigned to ExxonMobil Oil Corporation, and the full owner of all rights, title and interest in the subject patent.

As evidenced below, under the subsection titled "Item (5)," and based upon the legal conclusions reached therein by European attorney Anne Monique Mareschal, I declare that ExxonMobil Chemical Patents, Inc. is the rightful applicant and patent owner, and owner of the entire right, title and interest in the subject invention, entitled "Improved Metallized Films," by virtue of the relationship of the inventor to the corporation, circumstances, obligations, and legal conclusions set forth in Ms. Mareschal's Legal Memorandum, attached hereto. Considering that the inventor, Mr. Francois has not executed and returned an assignment document, no assignment document has been recorded for the subject patent application and invention.

Attached hereto is an unexecuted Declaration for Patent Application that is a duplicate of the Declaration presented to Mr. Francois for his execution that includes Mr. Francois' full name, most recent known address, and citizenship (see Exhibit B).

Also attached hereto is a Declaration under 37 CFR 1.47(b) that includes the title or position of the person signing on behalf of the 1.47(b) Applicant, his full name, mailing address, and citizenship (Exhibit F).

Applicant respectfully believes that the above fulfills the requirements of item (2).

Item (5) - proof of proprietary interest

Attached hereto is a Legal Memorandum (Exhibit G) signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would award the title of the

invention of the Rule 47(b) applicant. As the invention was conceived and developed in Europe and the inventor is a citizen of a European country, Applicant believes that jurisdiction and choice of law principles dictate that European law and jurisdiction would prevail to determine ownership of the invention and patent application. The Legal Memorandum attached hereto is prepared and concluded by a qualified European attorney, Anne Monique Mareschal. Ms. Mareschal concludes that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

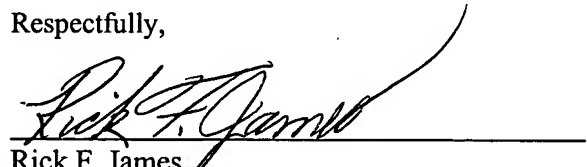
### Summary

Applicant respectfully believes that this Reply corrects and resolves all of the deficiencies from the 37 CFR 1.47(b) Petition submitted on September 23, 2004.

This declaration is being made by the best available person having first-hand knowledge of the facts recited therein.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully,

  
Rick F. James  
Atty. Registration, 48,772

Date: January 4, 2005

### Exhibits:

- A) Letter dated July 29, 2004 [w/attached Declaration (newly executed), Assignment, DHL Air Waybill Addressed To Jean-Marc Francois, DHL Return Air Waybill Pre-Addressed to Susan Engelmann and DHL Tracking History of Attempted Delivery]
- B) Letter dated December 2, 2004 [w/attached Declaration (newly executed), Assignment, DHL Air Waybill Addressed To Jean-Marc Francois, DHL Return Air Waybill Pre-Addressed to Susan Engelmann and DHL Tracking History of Attempted Delivery]
- C) DHL Detail Tracking Report (Letter dated December 2, 2004 w/attachments)
- D) Certification as Officer for Company
- E) Letter to Commissioner
- F) Declaration on behalf of Applicant
- G) Legal Memorandum